

REMARKS

Claims Rejections - 35 USC §102(b)

The Office rejected claims 23-43 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,406,079 issued to Tamada et al.. A rejection based on anticipation requires that a single reference teach every element of the claim (MPEP § 2131). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Or stated in another way, a "claim is anticipated only if each and every element as set forth in the claim is found, . . . described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . .

The applicant first notes that the cited reference is commonly assigned and shares an inventor with the present application. The applicant therefore submits that it is well aware of the differences between the cited reference and the claimed invention, and asserts that such differences are such as to make the two inventions patentably distinct.

In contrast to the claimed invention of claim 23, the cited reference fails to disclose a bumper beam, and a hollow impact absorbing member disposed between the bumper beam and the bumper fascia.

The Office alleges that the cited reference discloses such a bumper beam in col. 4, ll. 29-31. The cited passage describes a "longitudinal support that is part of the vehicle and provides greater collision safety." Notably, the preceding paragraph specifically indicates that the bumper assembly of the '079 comprises the bumper fascia and the bumper core, and that this bumper assembly is affixed directly to the vehicle. The applicant notes that the bumper assembly described in col. 4, ll. 29-31 is designed for use as a rear bumper (col. 4, l. 23). As noted in col. 1, ll. 27-34, rear and front bumpers have different characteristics in the event of a crash and

consequently have different structures associated with them. In col. 1, ll. 35-45, the '079 describes the use of bumper beams in combination with bumper fasciae. Notably, the '079 reference indicates that such a combination is undesirable as the rigid beam is subject to deformation in even minor collisions, resulting to high repair costs. (Col. 1, ll. 40-45). It should likewise be noted that a beam encased in a bumper fascia would present a rigid surface that would increase pedestrian injury or increase the probability of death or dismemberment.

The claimed invention, by contrast, provides a combined bumper assembly comprising both a bumper beam and an impact absorbing member. This combination provides for two levels of protection for the occupant of the vehicle, 1.) the comparatively more compliant impact absorbing member for low impact collisions, and 2.) the greater rigidity of the bumper beam provides greater protection in the instance of a high impact collision.

Furthermore, the cited reference fails to disclose absorption of impacts of varying force by difference components of the bumper assembly. The cited reference, as noted above lacks a bumper beam, such as that claimed by claims 23, 35, and 41. In contrast to the claimed invention, as amended, all impacts to the bumper are absorbed by the impact absorbing member, thus the in order to be effective for high force impacts, the impact absorbing member must be strong enough to absorb the impact, and therefore must have a rigidity that would be ill adapted to less forceful impacts, specifically to those with an impact force of 5kN or less. This is explained in the background section of the application of the claimed invention and the cure of this is cited as an object of the claimed invention.

The applicant therefore submits that the cited reference does not disclose the claimed inventions of claims 23, 35, and 41. As the cited reference fails to recite the claimed invention of claims 23, 35 and 41, those claims, as amended are not unpatentable in light of the cited reference. As independent claims 23, 35 and 41 are patentably distinct from the claimed invention, the applicant respectfully submits that those claims dependant from it are likewise patentably distinct. The applicant therefore respectfully requests that the Office withdraw its rejections of claims 23- 43.

Applicant believes the above amendments and remarks to be fully responsive to the Office Action, thereby placing this application in condition for allowance. No new matter is added. Applicant requests speedy reconsideration, and further requests that Examiner contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,

/Andrew P. Cernota, Reg. No. 52,711/

Cus. No. 24222
Vern Maine & Associates
PO Box 3445
Nashua, NH 03061-3445
Tel. No. (603) 886-6100, Fax. No. (603) 886-4796
patents@maineandasmus.com

Vernon C. Maine, Reg. No. 37,389
Andrew P. Cernota, Reg. No. 52,711
David A. Rardin, Reg. No. 52,153
Attorneys/Agents for Applicant